

**ALASKA STATE LEGISLATURE  
SENATE RESOURCES STANDING COMMITTEE**

March 13, 2019

3:30 p.m.

**MEMBERS PRESENT**

Senator Chris Birch, Chair  
Senator John Coghill, Vice Chair  
Senator Cathy Giessel  
Senator Lora Reinbold  
Senator Click Bishop  
Senator Scott Kawasaki  
Senator Jesse Kiehl

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 70

"An Act repealing the Ocean Rangers program; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 70

SHORT TITLE: REPEAL IND. OCEAN POLLUTION MONITORS/FEE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/22/19	(S)	READ THE FIRST TIME - REFERRALS
02/22/19	(S)	RES, FIN
03/13/19	(S)	RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

JASON BRUNE, Commissioner  
Alaska Department of Environmental Conservation  
Juneau, Alaska

**POSITION STATEMENT:** Provided an overview of SB 70.

ANDREW SAYERS-FAY, Director  
Division of Water

Alaska Department of Environmental Conservation  
Juneau, Alaska

**POSITION STATEMENT:** Provided an overview of SB 70.

JEFF ROGERS, Director  
Administrative Services  
Alaska Department of Environmental Conservation  
Juneau, Alaska

**POSITION STATEMENT:** Explained the fiscal note for SB 70.

JOESPH W. GELDHOF, representing self  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition of SB 70.

ROBB ARNOLD, representing self  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition of SB 70.

LYNDA GIGURE, representing self  
Douglas, Alaska

**POSITION STATEMENT:** Testified in opposition of SB 70.

HEATHER EVOY, Indigenous Engagement Lead  
Southeast Alaska Conservation Council  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition of SB 70.

ERIC CLOCK, Ocean Ranger  
Seward, Alaska

**POSITION STATEMENT:** Testified in opposition of SB 70.

NANCY BERG, representing self  
Petersburg, Alaska

**POSITION STATEMENT:** Testified in opposition of SB 70.

RONN BUSCHMANN, representing self  
Petersburg, Alaska

**POSITION STATEMENT:** Testified in opposition of SB 70.

JEFF HOKKANEN, Ocean Ranger  
Homer, Alaska

**POSITION STATEMENT:** Testified in opposition of SB 70.

DANIEL LYNCH, representing self  
Soldotna, Alaska

**POSITION STATEMENT:** Testified in opposition of SB 70.

TIM NELICK, Ocean Ranger  
Galveston, Texas

**POSITION STATEMENT:** Testified in opposition of SB 70.

GERSHON COHEN, representing self  
Haines, Alaska

**POSITION STATEMENT:** Testified in opposition of SB 70.

CHRIS SCHNEIDER, Ocean Ranger  
Seward, Alaska

**POSITION STATEMENT:** Testified in opposition of SB 70.

#### **ACTION NARRATIVE**

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**CHAIR CHRIS BIRCH** called the Senate Resources Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Coghill, Giessel, Kawasaki, Reinbold, and Chair Birch.

#### **SB 70-REPEAL IND. OCEAN POLLUTION MONITORS/FEE**

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**CHAIR BIRCH** announced the consideration of Senate Bill 70 (SB 70). He said SB 70 is an act that repeals the Ocean Rangers program by the Senate Rules Committee at the request of the governor.

[3:32:00 PM](#)

**JASON BRUNE**, Commissioner, Alaska Department of Environmental Conservation, Juneau, Alaska, explained that the Ocean Rangers program was implemented as part of a ballot initiative that passed by a slim margin on August 22, 2006. He said when he took on the role of commissioner for the Alaska Department of Environmental Conservation (DEC), Governor Dunleavy tasked each of his commissioners to make Alaska open for business. He said based on the governor's request, he asked his DEC team to identify overly burdensome regulations that are inefficient at meeting DEC's mission of protecting human health and the environment, that treat some industries inconsistently with other industries, and ones that are disproportionate with the risks posed. The Ocean Ranger program was top on the list because of its high relative cost to its value.

**COMMISSIONER BRUNE** pointed out that Major industries in Alaska with air emissions, wastewater discharges, potential for

significant oil spills, and solid waste disposal requirements, are regulated via DEC authorizations that includes self-monitoring and reporting, and both announced and unannounced inspections by DEC. No other industry in the state is subjected to 24/7 onsite observers, despite other industries posing a potentially greater human health and environmental risk. In Alaska, there are no mining rangers, oil rangers, fish processing rangers, or timber rangers. He asked why there should be cruise ship ocean rangers.

He explained that today's large cruise ships that visit Alaska either don't discharge in Alaskan waters or have an advanced wastewater treatment system that intermittently discharges cleaner wastewater than most community-based wastewater treatment systems the discharges 24/7; for example, the discharges that cruise ships have in Alaskan waters can only contain 40-fecal-coliform bacteria per one-third cup of water. He noted that one wastewater treatment plant in one port community is permitted to discharge 1.5 million of the same fecal coliform bacteria per one-third cup of water. DEC has sufficient latitude and authority to inspect any property or premises with suspected sources of pollution or contamination, or to ascertain compliance or noncompliance with a regulation. DEC does not need the statute establishing Ocean Rangers for inspections.

He detailed that the Ocean Ranger program is funded by a \$4 per lower berth fee which results in approximately \$4 million annually in Ocean Ranger receipts. The Ocean Ranger fee is used to hire a contractor that employs predominantly out-of-state marine engineers. Ocean Rangers have made 6 observations over 11 years that have led to state-issued notices of violation. He pointed out that the Ocean Rangers' presence onboard does provide some deterrent value, but the value to the state of Alaska is not commensurate with the money that is being spent nor the risk posed. If the Ocean Ranger was funded entirely by general fund dollars, the program would have been eliminated years ago.

He said the argument has been made that since the Ocean Ranger program does not have an impact on the state's coffers, DEC should not be dealing with SB 70, a sentiment that he disagrees with. To show that Alaska is open for business and encouraging new investment into the state, Alaska must treat its industries firmly but fairly and be good stewards not only to the state's money, but also of the cruise ship passengers who pay the fees and are significant contributors to Alaska's tourism industry.

He said Andrew Sayers-Fay, DEC's Director of Water, will address the specifics of SB 70.

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SENATOR KIEHL joined the committee meeting.

[3:32:42 PM](#)

SENATOR BISHOP joined the committee meeting.

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ANDREW SAYERS-FAY, Director, Division of Water, Alaska Department of Environmental Conservation, Juneau, Alaska, said the department believes SB 70 is legislation that shows good stewardship of other people's money, whether given by the state or collected from cruise ship passengers. He provided an overview for the repeal of the Ocean Ranger program as follows:

- Identified as a non-essential program in the governor's amended FY2020 budget.
- Ocean Ranger program is costly for its outcomes:
  - \$3.8 million per year in Ocean Ranger fees.
- No other permitted industry is subject to 24/7 onsite observers including:
  - Wastewater discharges to land and water.
  - Domestic, industrial, mining, oil & gas, seafood, etc.
  - Air emissions.
  - Regulated mobile and stationary sources.
  - Hazardous and solid waste facilities.
  - Food establishments, tattoo parlors, pools, and spas.
- Department has other resources and authorities to regulate cruise ships:
  - \$748,300 funded by cruise industry through non-Ocean Ranger fees.
  - Four department staff positions:
    - Register cruise ships and review submittals:
      - Example: best management plans for small cruise ships and vessel specific sampling plan.
      - Issue wastewater discharge authorizations under larger cruise ship general permit.
      - Conduct inspections, issue notices of violations, and with Law initiate enforcement actions and fines.

- o Additional opacity monitoring conducted by contractors in multiple port cities to distinguish what is steam and what exceeds DEC's air quality standards.

MR. SAYERS-FAY reiterated that the Ocean Ranger program was identified as non-essential primarily due to its cost versus outcome. The \$3.8 million per year in Ocean Ranger fees is 3 times the cost of the department's overall wastewater program permitted through the Division of Water.

He specified that DEC is addressing the Ocean Ranger program and not the department's cruise ship program. There are other funds from cruise ships that are collected, and other DEC staff members dedicated for inspecting and looking at cruise ship issues regarding compliance.

He emphasized that there is no other permitted industry in Alaska that has 24/7 onsite observers. Most industries have some combination of self-monitoring, reporting the results to the agency, or keeping copies of records to show documented evidence for inspections that shows training, sample collection, and results received. Facilities authorized to discharge under the Alaska Pollutant Discharge Elimination System are visited at least once over a range of two to five years. There is a very large difference between the frequency of coverage with Ocean Rangers onboard cruise ships where 65 percent of the voyages are covered in Alaskan waters where a Ranger is onboard for some portion of a sailing.

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He summarized that separate from the Ocean Ranger program, \$750,000 in fees is collected annually to run the Division of Water's cruise ship program.

SENATOR BISHOP asked if the department hires a contractor for opacity monitoring.

MR. SAYERS-FAY answered yes, separate from the Ocean Ranger program.

SENATOR BISHOP asked if the department still does opacity testing for asphalt plant operators.

MR. SAYERS-FAY replied that Division of Air monitors asphalt plants. Cruise ship monitoring is centralized under the Division of Water to cover both air and water issues.

SENATOR BISHOP explained that the reason for his question related to asphalt operations is his recollection that plant operators could annually receive their opacity testing certification so that smoke could be self-monitored. He asked if self-monitoring was still allowed.

MR. SAYERS-FAY answered that he cannot directly address Senator Bishop's question regarding all the ways to receive certification. The Division of Water has annual training for its staff and contractors used for opacity monitoring.

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He addressed "Outcomes for the Ocean Ranger program's \$3.8 million per year cost" as follows:

- Potential non-compliance identified by Ocean Rangers may not reflect actual non-compliance:
  - There may not be enough information to make the determination;
  - It may be under federal or other agency jurisdiction;
  - The issue is resolved quickly such that a determination is no longer needed.
- Ocean Rangers look for potential non-compliance with state and federal authorities pertaining to marine discharge and pollution requirements and to insure that passengers, crew, and residents at ports are protected from improper sanitation, health, and safety practices.
- Most issues identified by Ocean Rangers on daily reports turn out not to be formal violations:
  - Ocean Rangers are not the experts on what constitutes non-compliance over the vast array of state and federal statutes and regulations.
- Six notices of violation (NOV) over 11 years attributable to Ocean Ranger observations:
  - 238 NOVs over the same period attributable to permittee self-reporting, staff inspections and review, and opacity monitoring by contractors.
  - All NOVs supported by other evidence supplied by vessel operators.
  - NOVs may include more than one violation.

He reiterated that the department looked at what the state receives in return for the annual \$3.8 million investment in the Ocean Ranger program. DEC typically reports through OMB the number of potential compliance issues that Ocean Rangers identify via their broad authority. DEC looked more thoroughly

as to how many issues identified by the Ocean Rangers actually end up becoming a NOV.

MR. SAYERS-FAY emphasized that Ocean Rangers are not experts in all inspection areas. Ocean Rangers look at bilge water; fuel handling practices; air emissions; wastewater discharges that includes sewage, graywater; and pools or spas who accidentally discharge chlorinated water overboard. Ocean Rangers also look at food preparation practices, hazardous materials including batteries moved on and off a ship. Ocean Rangers are looking at solid waste which is a very broad area. Ocean Rangers identify many things that look to them like issues, but DEC staff must follow up on their observations to determine if a NOV has been observed.

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He addressed the large cruise ship NOVs table.

- Large cruise ship annual notices of violation from 2008 to 2018:
  - Wastewater:
    - Average: 16.8,
    - Minimum: 8,
    - Maximum: 33,
    - Total: 185.
  - Air opacity:
    - Average: 4.7,
    - Minimum: 0,
    - Maximum: 11,
    - Total: 52.
  - Other:
    - Average: 0.1,
    - Minimum: 0,
    - Maximum: 1,
    - Total: 1.
  - Ocean Ranger attributable:
    - Average: 0.55,
    - Minimum: 0,
    - Maximum: 2,
    - Total: 6.
  - Total: 244.

He disclosed that over the 11 years of the program, DEC identified 6 NOVs that are directly attributable to observations made by Ocean Rangers, the remaining 238 NOVs issued by the department over the same period either have to do with staff

inspections responding to complaints, doing periodic opacity monitoring, or following up on observations that were initially made by contractors doing opacity monitoring.

MR. SAYERS-FAY noted that the wastewater field for large cruise ships exhibits more NOV's because the permit has more explicit requirements and it is easy to identify whether a vessel complies or not, plus the vessel has self-monitoring requirements that must be reported to the department.

SENATOR KAWASAKI addressed Mr. Sayers-Fay's overview that talks about potential non-compliance with state and federal authorities. He asked if the department would be able to assume the Ocean Ranger role regarding federal regulations.

MR. SAYERS-FAY explained that DEC is trying to show that most NOV's do not come from the Ocean Rangers. If DEC maintains what the division's cruise ship staff currently does without any changes, the expectation is for a similar level of possible NOV observations. Discontinuation of the Ranger program would allow a staff member to do additional onboard inspections rather than reviewing reports by Ocean Rangers.

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SENATOR KIEHL asked if the same amount of time could be freed up by computerizing reports.

MR. SAYERS-FAY answered that the program is reviewed every year and the intent over time has been to make things as electronic as possible in terms of the forms Ocean Rangers fill out and how the reports are e-mailed to the department. DEC does not have a system that is completely automated, but the department is in the process of moving in that direction.

He addressed "Bill background" for SB 70 as follows:

- Would repeal Ocean Ranger program (AS 46.03.476).
- Would repeal the \$4/lower berth fee which is separately paid below the line directly by the passenger, not the cruise agency (AS 46.03.480(d)).
- Originally created by ballot initiative in 2006, which included other regulatory changes which are not affected by SB 70.
- Program not required by state constitution or federal law.
- Program conducted by out-of-state contractor primarily with non-Alaskan employees.

- Reduction of \$3,846,800 of Ocean Ranger fee receipts.

MR. SAYERS-FAY specified that due to the number of voyages and the number of large cruise ships that visit Alaska, having an Ocean Ranger on a ship at all times is difficult. Every ship is covered at some point when the vessel is in Alaska, approximately 65 percent of the voyages are covered.

He noted that passengers directly pay fees that includes the \$4 charge for the Ocean Ranger program. The Port of Seattle charges approximately \$16 per passenger when the individual boards and disembarks, approximately \$33 in total charges. Passengers fees add up, total per-person fees for a typical cruise to Alaska can add up to approximately \$150 is passenger fees.

He reiterated that the Ocean Ranger program was part of a ballot initiative and funding for the program is separate from other aspects of the initiative which created the head tax that is separate from the Ocean Ranger fee. Changes were made to DEC's statutory authority that SB 70 does not roll back. DEC was granted some additional authority in terms of data collection in dealing with cruise ships, none of that has changed, the only portion of the program that SB 70 addresses is not having the Ocean Rangers and repealing the fee for the program.

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SENATOR GIESSEL asked if AS 46.03.480(d) repeals only the fee that goes to the Ocean Ranger program and the fee does not pay for any other aspect of taxes that the cruise ship passengers pay or other monitoring functions.

MR. SAYERS-FAY answered that AS 46.03.480 covers the entire set of fees that DEC receives. A separate fee that will be unaffected is called the Commercial Passenger Vessel Environmental Compliance fee that is covered in AS 46.03.480(a) through AS 46.03.480(c) and AS 46.03.480(e). The Commercial Passenger Vessel Environmental Compliance fee is the additional funding that DEC uses for monitoring cruise ships that is separate from the Ocean Rangers program.

He summarized that the Ocean Ranger program is not required by the Alaska Constitution or federal law, it is conducted by a contractor that is paid approximately \$3.8 million per year, and the Ocean Rangers are primarily out-of-state marine licensed engineers.

MR. SAYERS-FAY addressed "Department Authorities Remaining after SB 70" as follows:

- AS 46.03.710 Pollution Prohibited: a person may not pollute or add to the pollution of the air, land, subsurface land, or water of the state.
- AS 46.03.020 Powers of the Department: DEC may at reasonable times, enter and inspect with the consent of the owner or occupier any property or premises to investigate either actual or suspected sources of pollution or contamination or to ascertain compliance or noncompliance with a regulation.
- Authorities for Commercial Passenger Vessel Environmental Compliance Program (AS 46.03.460 - 475 and AS 46.03.480 - 488).
- Authorities for pollution standards, waste and wastewater discharge management (AS 46.03.070 - 120).
- Authorities for civil and criminal inspection, enforcement, and liability (AS 46.03.760 - 890).
- Authorities for oil spill prevention, preparedness, and response (AS 46.03.740 - 865; AS 46.04; AS 46.08; AS 46.09).
- Authorities for air quality (AS 46.14.010 - 030).

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SENATOR KAWASAKI addressed AS 46.03.020 regarding the "Powers of the Department" and asked him to specify what Ocean Rangers do when they are onboard. He inquired if Ocean Rangers do more in regulation than what is stated in the statute that the department can do.

MR. SAYERS-FAY answered that the main difference is that staff members are credentialed inspectors and enforcement officers of the department and they go through a training program to obtain their credentials. When staff members are onboard in contrast to an Ocean Ranger, the difference is training, and it is a difference being able to be called into court to backup a NOV that is contested.

SENATOR KAWASAKI said he expected that DEC staff members do their inspections while a vessel is in port. He asked what happens when a vessel is between ports, would a DEC staff member be onboard as an Ocean Ranger would.

MR. SAYERS-FAY specified that staff members are not riding on the cruise ships between ports, inspections are done onshore

when the vessel is docked. DEC does not have the same coverage as an Ocean Ranger. When an Ocean Ranger is onboard, they have a certain amount of time for paperwork, mandatory requirements, and inspections. There is a difference in coverage between ports and in terms of the amount of time spent.

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SENATOR KAWASAKI asked him to confirm that Ocean Rangers are monitoring vessels while in port and at sea where ending the program will result in not having someone permanently onboard between ports.

MR. SAYERS-FAY answered correct. He explained that the result would be the cruise ships are regulated like all other industries where DEC does not have 24/7 presence.

SENATOR BISHOP asked if his earlier statement that coverage with Ocean Rangers at any one time is 65 percent.

MR. SAYERS-FAY answered yes. He explained that there are approximately 34-large cruise ships in any given year that are sailing in Alaskan waters. Every cruise ship making their multiple trips will have an Ocean Ranger onboard multiple times during a cruise ship season, but of the number of trips that a given vessel takes, approximately 18 to 20, an Ocean Ranger is onboard 65 percent of the sailings.

SENATOR BISHOP asked him to confirm that coverage is not 100-percent right now.

MR. SAYERS-FAY answered correct. He specified that 24/7 coverage means when an Ocean Ranger is present.

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SENATOR KIEHL referenced his statement about enforceability and asked if he said that an Ocean Ranger who spots a violation at sea does not have the authority to issue a notice of violation (NOV).

MR. SAYERS-FAY answered that an Ocean Ranger cannot submit a report that automatically turns into a NOV. A DEC staff member must become involved where the report is reviewed, an Ocean Ranger is questioned if necessary, additional information is gathered from the cruise ship, and based on the information gathered the DEC staff member determines whether to write up a NOV.

SENATOR KIEHL asked if an Ocean Ranger not having authority is effective.

MR. SAYERS-FAY answered that an Ocean Ranger would have to be deputized to confer departmental authority to be more effective. The reason for the bill is because the Ocean Ranger program is not an effective way to regulate due to the cost and excess coverage that no other industry faces. There is an appropriate deterrence and regulation of other industries without the level of Ocean Ranger involvement with cruise ships.

SENATOR KIEHL asked if contractors do opacity monitoring.

MR. SAYERS-FAY answered correct.

SENATOR KIEHL asked if the same issue applies to the contractors for opacity monitoring.

MR. SAYERS-FAY explained that opacity readers go through the same training the DEC staff does to be able to properly read opacity using EPA Method 9 requirements. Opacity readers are providing readings of interest where the information is double checked by a DEC staff member before consideration is given for a formal violation. Due to opacity readers being trained with DEC staff, the department is more comfortable working with the opacity readers.

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He addressed "Significance of remaining authorities" if SB 70 passed as follows:

- Department staff have authority to conduct inspections at reasonable times:
  - Staff can obtain a warrant to inspect if denied reasonable access.
- No change in the standard of what is legal or illegal.
- No change in enforcement or emergency authority because those are primarily activities of the department.
- Does not change the large cruise ship wastewater discharge general permit.
- Does not change the small cruise ship and ferry best management plan requirements.
- Does not change sampling or reporting requirements.

SENATOR KIEHL noted that Commissioner Brune spent significant time on the difference in discharge standards for fixed-point

discharges versus cruise ship standards. He asked if his argument was against mixing zones.

COMMISSIONER BRUNE explained that he brought up the comparison to show the disparity of the requirements for the cruise ship industry versus the host-port communities. He admitted that the relevance to SB 70 is probably inappropriate.

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SENATOR COGHILL recalled when the Ocean Rangers were put in that the cruise ships were in the process of upgrading their wastewater treatment systems.

MR. SAYERS-FAY answered correct. He explained that in 2001 there was a federal bill that changed the wastewater requirements for the cruise ships, and the requirements were phased in. He said his understanding is that all of ships now operating in Alaska that are discharging are using advanced wastewater treatment systems. There are some ships that have the holding capacity that they do not discharge in Alaskan waters because if they did, they would have to follow DEC's requirements.

SENATOR COGHILL asked if the cruise ships can do high-seas mixing.

MR. SAYERS-FAY asked if he meant mixing or discharge

SENATOR COGHILL replied discharge outside of Alaska waters.

MR. SAYERS-FAY answered yes. He explained that all the ships that DEC regulates under the state's authority is within three-nautical miles from shore. The previously noted federal bill has specific language that covers donut holes in the Alexander Archipelago in Southeast Alaska where a vessel can be more than three miles from shore but still be in Alaskan waters. Permit coverage applies within the entire Alexander Archipelago and three-nautical miles from shore.

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SENATOR COGHILL asked how many ships venture outside of the Alexander Archipelago.

MR. SAYERS-FAY answered that a lot of ships start out of Seattle or Vancouver, so a portion of their travel is outside of Alaskan waters. The vast majority of the ships are operating such that once they enter Alaskan waters, they stay in Alaskan waters until they leave.

SENATOR KAWASAKI noted that the DEC website reported cruise ship findings or discoveries that involved 74 oil pollution incidences in 2018 and 87 in 2017 in addition to 19 wastewater incidences in 2018 and 22 in 2017. He asked how many of the incidents that Ocean Rangers find reach the level of a violation.

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MR. SAYERS-FAY explained that Senator Kawasaki was referring to DEC's report to OMB that showed different things that Ocean Rangers found potential non-compliance for safety, petroleum, air quality, and water quality. He said that over the life of the Ocean Ranger program, there have only been six NOV's that have been directly attributable to the Ocean Rangers. The 6 NOV's by the Ocean Rangers may have involved an oil sheen, off-loading wastewater where there may have been a spill, a sampling plan that was not followed, or an unauthorized discharge; those are some of the items in the 6 NOV's that were identified over the 11 years from 2008 through 2018.

SENATOR KAWASAKI asked how many times incidences are reported by Ocean Rangers and DEC follows up and identifies at the next port.

MR. SAYERS-FAY said he asked the program manager for the cruise ship program explained that NOV's are attributable to the Ocean Rangers when it is their report that initiates DEC's investigation. Reports of potential violations could also come from DEC staff, an opacity contractor, or the cruise ship self-reporting an incident.

4:09:27 PM

SENATOR KAWASAKI asked how an NOV inspection happens when a DEC staff member is involved.

MR. SAYERS-FAY answered that if an Ocean Ranger initiates an activity and whatever follow up results in a NOV, that would become one of the six notices of violations that are attributable to Ocean Rangers. Because of the nature of a NOV and because that is the formal enforcement step, there is never a situation where only based on the Ocean Ranger report does it go automatically to a NOV, there is always DEC staff involvement.

SENATOR KIEHL asked if DEC staff follows up on Ocean Ranger reports 100 percent of the time or are adjustments made due to DEC's workload issues.

MR. SAYERS-FAY answered that by the end of the season or shortly thereafter, the coverage rate is 100 percent; however, when the reports come in the DEC staff will response first to the reports that are most egregious.

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He addressed "Transition and timing" if SB 70 passed as follows:

- Ocean Rangers will operate during Summer 2019 under FY2019 budget authority and fee receipts.
- Governor has proposed HB74/SB70 to repeal the Ocean Ranger program and associated fees.
- If Ocean Ranger budget authority is eliminated but statutory program is not repealed, then the Department:
  - Would be required to collect the \$4/berth fee in Summer 2020;
  - But, would not have the budget authority to implement the program during that season.

SENATOR KIEHL noted the fiscal notes and pointed out that three notes reflected a fund change if SB 70 passes. He said \$421,000 would come out of the Cruise and Environmental Compliance account. He asked if the fund is \$421,000 a year in surplus and if so, what is being done with the built-up money.

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JEFF ROGERS, Director, Administrative Services, Alaska Department of Environmental Conservation, Juneau, Alaska, replied that Senator Kiehl is correct to some degree. He specified that the department has not had in the Cruise Ship program in the Division of Water the amount of legislative authorization to spend what the department has in revenue. DEC's revenue numbers in recent years have varied, but the amount hovers in the range of \$3.5 million-plus. There are some timing issues because the revenue spans the department's fiscal year. The department estimates that in the current year and the following year that the department will receive more than \$5 million in Ocean Ranger receipts, a progression that naturally follows the increase in cruise ship passengers. He noted that the legislature decided two years ago to fund the Fish Tissue Monitoring program at the Environmental Health lab with receipts from the Ocean Ranger program. He added that a couple of hundred thousand dollars supports the Ocean Rangers' administrative

costs as well. He summarized that DEC spends funds that were appropriated to the department by the legislature on something other than the Ocean Ranger program.

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SENATOR KIEHL specified that his question was related to the replacement fund source.

MR. ROGERS explained that the \$420,800 that is currently funded by the Ocean Rangers' receipts will be sufficiently covered by the Commercial Passenger Vessel Environmental Compliance fees. He added that the Fish Tissue Monitoring program will be funded by the same fees.

CHAIR BIRCH asked if technological changes have occurred that can improve program monitoring.

MR. SAYERS-FAY answered yes. He said there has been a change in technology that provides opportunities to consider in adding functionality to monitoring where reporting can be automatic or downloaded to provide a greater breadth of information.

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SENATOR KAWASAKI inquired if current statutory law allows DEC to do remote monitoring.

MR. SAYERS-FAY answered that DEC's authority to do so would be the department's overall objective of properly monitoring but cost and purpose for the regulated community must be considered.

SENATOR KIEHL asked who would cover the cost for advanced monitoring systems if the fee is repealed, the passenger or ship owner.

MR. SAYERS-FAY answered that funds from the Commercial Passenger Vessel Environmental Compliance fees would be used.

SENATOR KIEHL noted that Mr. Rogers had said the fund from the Commercial Passenger Vessel Environmental Compliance fees would have to be watched very carefully for sustainability.

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CHAIR BIRCH opened public testimony.

[4:21:17 PM](#)

JOESPH W. GELDHOF, representing self, Juneau, Alaska, testified in opposition of SB 70. He opined that the \$4 passenger fee for

the Ocean Ranger program came about because the cruise ship industry earned the scrutiny. He suggested that the bill be reconfigured in a manner that works and makes sense both for the industry and the citizens of Alaska. He noted that the idea of putting an onboard observer on cruise ships was originated from discussions with the fishing community who are used to having onboard observers in the federal fisheries.

[4:25:02 PM](#)

ROBB ARNOLD, representing self, Juneau, Alaska, testified in opposition of SB 70. He said his biggest concern was related to several incidences that occurred near Ketchikan in 2018 where excessive fecal levels in the water were reported. He said the Ocean Ranger program is a small price to pay for independent monitoring and there is no cost to the state. He added that he is concerned that four permits were issued for discharging at the dock. He said no where in the world is discharging at docks allowed. He opined that more instate Ocean Rangers be hired to allow for additional monitoring.

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LYNDA GIGURE, representing self, Douglas, Alaska, testified in opposition of SB 70. She said to throw the Ocean Ranger program out does not make sense. She opined that fewer NOV's reported by Ocean Rangers means the program is working.

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HEATHER EVOY, Indigenous Engagement Lead, Southeast Alaska Conservation Council, Juneau, Alaska, testified in opposition of SB 70. She stated that cutting the Ocean Ranger program has no benefit and only does harm to the safety, health, and wellbeing of Alaskan residents, ecosystems, and economy. The Ocean Ranger program is an effective monitoring and enforcement mechanism in Alaska to ensure cruise ships are not damaging Alaskan waterways. There is no financial cost to the state, but the program provides a much-needed protective service.

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ERIC CLOCK, Ocean Ranger, Seward, Alaska, testified in opposition of SB 70. He opined that Ocean Rangers onboard cruise ships provide valuable oversight to the cruise industry, DEC, and the U.S. Coast Guard. Ocean Rangers provide reassurance to Alaskans who drafted and voted on the initiative in 2006 creating the program. The Ocean Ranger program is covered by the \$4-per-cruise-ship-passenger fee and does not affect Alaska's budget. He noted the importance of having an independent monitor onboard cruise ships.

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NANCY BERG, representing self, Petersburg, Alaska, testified in opposition of SB 70. She noted that the Petersburg fishing fleet's most frequent comment on tourism is the importance of having clean air and water for commercial fishing activities. She pointed out that cruise ship passenger counts continue to grow and having a beautiful environment in Alaska is an asset to the cruise ship industry. She pointed out that the cruise ship industry has not asked for the Ocean Ranger program to be repealed.

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RONN BUSCHMANN, representing self, Petersburg, Alaska, testified in opposition of SB 70. He said the state should not overlook the deterrent effect of Ocean Rangers, especially with the increase in Alaska cruise ship travel and noted violations in the past.

[4:38:30 PM](#)

JEFF HOKKANEN, Ocean Ranger, Homer, Alaska, testified in opposition of SB 70. He opined that the Ocean Ranger program has been successful at doing what the citizens of Alaska wanted with the ballot measure passed in 2006. Ocean Rangers have been able to supply DEC with information that could be obtained by having Ocean Rangers onboard cruise ships versus shore-based monitoring.

[4:40:56 PM](#)

DANIEL LYNCH, representing self, Soldotna, Alaska, testified in opposition of SB 70. He emphasized that the ballot initiative that passed for the Ocean Ranger program is the people's intent.

[4:41:43 PM](#)

TIM NELICK, Ocean Ranger, Galveston, Texas, testified in opposition of SB 70. He noted that any Ocean Ranger interaction with cruise ship passengers is typically met with substantial gratitude and appreciation to preserve the Alaska cruising environment. Alaska tourism is eco-tourism.

[4:43:55 PM](#)

GERSHON COHEN, representing self, Haines, Alaska, testified in opposition of SB 70. He disclosed that he was one of the authors of the ballot measure in 2006 that created the Ocean Ranger program. He emphasized that the cruise ship industry has earned its scrutiny due to wastewater violations. He opined that violations outside of Alaska are due to not having independent

monitors onboard. He said the Ocean Ranger program should not be repealed especially when independent monitoring is so clearly needed, especially when the program is paid for by passengers and not Alaskans.

[4:46:21 PM](#)

CHRIS SCHNEIDER, Ocean Ranger, Seward, Alaska, testified in opposition of SB 70. He noted the importance of monitoring because a ship is not stationary versus a wastewater treatment facility. He opined that the six noted NOV's reported by Ocean Rangers shows that the program is effective.

[4:48:45 PM](#)

CHAIR BIRCH closed public testimony.

[4:48:54 PM](#)

CHAIR BIRCH held SB 70 in committee.

[4:49:24 PM](#)

There being no further business to come before the committee, Chair Birch adjourned the Senate Resources Standing Committee meeting at 4:49 p.m.